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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **SOUTHERN DIVISION**

11
12 Network Signatures, Inc.,
13 Plaintiff,
14 v.
15 Citigroup, Inc.,
16 Defendant.

Case No. **08-00718 DOC (RNBx)**
JOINT RULE 26(F) REPORT
Hearing Date: December 15, 2008
Time: 8:30
Courtroom: 9-D

17 Network Signatures, Inc. and Citigroup, Inc. hereby submit their Joint Rule 26(f)
18 Report. The Report includes all information required by this Court's Order Setting
19 Scheduling Conference, and notes the parties' disagreements on issues where applicable.

20 **A. SYNOPSIS**

21 **1. Network Signatures' Position:** This is a patent enforcement and
22 infringement action by Plaintiff, the exclusive licensee to United States Patent No.
23 5,511,122 ("the '122 patent") entitled "Intermediate Network Authentication." Plaintiff is
24 currently commercializing '122 patent technology and concurrently enforcing the '122
25 patent, which was developed by the United States Navy.

26 To allow enforcement, commercialization of and protection of this patent and the
27 technology it represents, the United States Navy granted an exclusive license to NS of the
28 entire right, title, and interest in and to the '122 Patent.

1 The '122 patent claims, among other things, a critical method of authenticating a
2 computer user in which the computer user's private electronic key is used, together with a
3 validating computer's public electronic key, to create a cryptographic signature, the
4 cryptographic signature is transmitted in at least one packet to the validating computer, and
5 the signature is verified by the validating computer using its private key and the public key
6 of the computer user. This authentication method allows for the safe and secure
7 communication of sensitive information, such as personal, banking, commercial, financial,
8 and other information, as is transmitted by and between Defendant and its other related
9 entities, customers and/or users. Defendant uses digital certificates and digital signatures
10 implemented through the use of public key infrastructure to facilitate communication with
11 its employees and customers, or related entities.

12 **2. Citibank's Position:**

13 Citibank does not agree with Plaintiff's contentions as stated in paragraph 1,
14 including, without limitation, Plaintiff's description of the '122 patent claims. Defendant
15 denies that it directly or indirectly infringes the asserted patents and contends that Plaintiff
16 has failed to state a claim for which relief can be granted. Additionally, Defendant
17 contends that the patents-in-suit are invalid based on failure to satisfy 35 U.S.C. §§ 101,
18 102, 103, and/or 112, are unenforceable due to Plaintiff's inequitable conduct, and that the
19 Plaintiff is barred from asserting its claims by, among other things, the doctrines of laches,
20 waiver, equitable estoppel, res judicata, and/or collateral estoppel. Defendant also contends
21 that Plaintiff lacks standing to enforce the asserted patents because its licenses are invalid.
22 Defendant has asserted counterclaims for declaratory judgment of non-infringement and
23 invalidity.

24 **B. PRINCIPAL ISSUES**

25 The key legal issues are: (1) whether Defendant infringes the '122 patent literally or
26 under the doctrine of equivalents; (2) whether any such infringement was willful; (3)
27 whether the '122 patent is valid; (4) whether as a result Plaintiff is entitled to an injunction;
28 and (5) what damages Plaintiff is entitled to.

1 **C. ADDITIONAL PARTIES**

2 Plaintiff does not anticipate adding any further parties at this time.

3 **D. MOTIONS**

4 At this time, Plaintiff expects to file a motion for summary judgment on literal
5 infringement and to secure a summary judgment on validity. Plaintiff is willing to have a
6 *Markman* hearing if the Court desires or to address claim construction as many Judges do
7 in the context of summary judgment. Defendant believes that a separate *Markman* hearing
8 prior to summary judgment will help narrow the issues for summary judgment and assist
9 the Court with the interpretation of the '122 patent. Defendant has proposed a schedule
10 with deadlines related to a separate *Markman* hearing.

11 **E. SETTLEMENT**

12 The parties are currently in settlement negotiations. If the parties' efforts fail,
13 plaintiff believes a private mediation with a retired Central District federal judge makes
14 sense; Plaintiff proposes retired Judge Dickran Tevrizian or retired Judge Gary Taylor.
15 Defendant is agreeable to private mediation.

16 **F. DISCOVERY PLAN**

17 Plaintiff does not envision any needed changes to the Rule 26(a)
18 disclosures/requirements. No written discovery has occurred yet. Plaintiff expects the
19 parties will enter a standard two-tiered protective order to facilitate written discovery.
20 Plaintiff does not believe any discovery should be phased.

21 **G. JURY TRIAL**

22 Plaintiff and Defendant believe a jury trial of 4-6 days will suffice.

23 **H. PROPOSED DATES**

24 Plaintiff proposes the following dates:

25 (a) Discovery cutoff 8/15/09
26 (b) Motion cutoff 10/15/09
27 (c) PTC 11/9/09

1 (d) Trial 11/16/09

2 Defendant proposes the following dates:

3 (a) Plaintiff's Infringement Contentions: 1/30/09

4 (b) Defendant's Invalidity Contentions: 6/29/09

5 (c) Simultaneous Exchange of Claim Terms for Construction: 8/17/09

6 (d) Preliminary Proposed Claim Construction/Extrinsic Evid.: 10/19/09

7 (e) Joint Claim Construction: 12/14/2009

8 (f) Plaintiff's Claim Construction Brief: 1/15/2010

9 (g) Defendant's Response: 2/15/2010

10 (h) Plaintiff's Reply: 2/26/2010

11 (i) Markman Hearing: 3/26/2010

12 (j) Discovery cutoff: 12/14/09

13 (k) Motion cutoff: 5/17/2010

14 (l) PTC: 6/28/2010

15 (m) Trial: 7/19/2010.

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17 Dated: December 1 , 2008

TURNER GREEN AFRASIABI & ARLEDGE LLP

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19 By: /s/ Peter R. Afrasiabi

20 Peter R. Afrasiabi

21 Attorneys for Plaintiff, Network Signatures, Inc.

22 Dated: December 1 , 2008

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24 By: /s/ John W. MacPete

25 John W. MacPete

26 Attorneys for Defendant